

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ALFREDO VILLOLDO, individually, and
GUSTAVO E. VILLOLDO, individually, and
as Administrator, Executor, and Personal
Representative of the ESTATE OF
GUSTAVO VILLOLDO ARGILAGOS,

CIVIL NO. 13-1675 (JNE/JSM)

Plaintiffs,

REPORT AND RECOMMENDATION

v.

FIDEL CASTRO RUZ, as an individual, and
as an official, employee, or agent of The
Republic of Cuba, RAUL CASTRO RUZ,
as an individual, and as an official, employee,
or agent of The Republic of Cuba, THE
MINISTRY OF INTERIOR, an agency or
instrumentality of The Republic of Cuba,
THE ARMY OF THE REPUBLIC OF CUBA,
an agency or instrumentality of The Republic
of Cuba, and THE REPUBLIC OF CUBA,
a foreign state,

Defendants.

JANIE S. MAYERON, United States Magistrate Judge

The above matter came before the undersigned United States Magistrate Judge to determine whether this case should be dismissed for lack of prosecution. The matter has been referred to this Court for a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72.1(c).

I. BACKGROUND

On August 19, 2011, plaintiffs obtained a judgment against defendants in Miami-Dade County, Florida, in the amount of \$2,790,000,000 ("Judgment"). See Docket No.

1, Ex. A.¹ In a related action, this Court issued an order authorizing attachment of defendants' assets within this jurisdiction and authorized plaintiffs to enforce the judgment against defendants using post-judgment enforcement procedures. See Villoldo v. Castro Ruz, Misc. No. 13-20 (JNE/JSM), Order [Docket No. 17]. Plaintiffs then commenced this action on June 27, 2013, by filing a Notice of Pending Action – 28 U.S.C. § 1605A(g) Lis Pendens in this Court. [Docket No. 1]. The purpose of this action was to provide notice of the Judgment, which affects all property located in this judicial district owned by the defendants and numerous entities, agencies or instrumentalities of defendants, so as to allow plaintiffs to proceed to take over any assets located in the District.

Nearly 18 months have passed since this action was filed, and no further pleadings or motions have been filed by any party. Accordingly, on November 14, 2014, this Court issued an Order directing plaintiffs by December 1, 2014, to file written report on the status of their efforts to locate assets in this District. [Docket No. 6].

On December 1, 2014, plaintiffs submitted a Response to the Court's Order of November 14, 2014. [Docket No. 7]. In their Response, plaintiffs admitted that contrary to the information they had received from the Office of Foreign Assets Control ("OFAC"), they had located no assets belonging to defendants in this District. Id. Plaintiffs did state that they were continuing their efforts to locate and execute upon assets belonging

¹ Docket No. 1 is identified as a "Complaint," but it is not a Complaint. This pleading is made up of the Notice of Pending Action – 28 U.S.C. § 1605A(g) Lis Pendens, and attached to it as Exhibit A are the Complaint filed in the Southern District of New York, Civ. No. 11-9394; the final judgment issued In re: Alfredo Villoldo v. Fidel Castro, Case No. 08-14505, by the Circuit Court of the Eleventh Judicial Circuit, Miami-Dade County, Florida; and the decision and Order issued In re: Estate of Michael Heiser v. Islamic Republic of Iran, which approved the form of the Notice of Pending Action filed in this Court.

to defendants, and that they intended to re-subpoena the OFAC for any new assets that may have been blocked in this district over the past year. Id. Based on this record, it is apparent to the Court that the matter was filed here erroneously or prematurely. Therefore, the Court recommends that this matter be dismissed without prejudice. In the event that plaintiffs discover assets located in this District belonging to defendants, or any entities, agencies or instrumentalities of defendants, plaintiffs may commence a new proceeding at that time.

II. RECOMMENDATION

For the reasons stated above, it is hereby RECOMMENDED that Plaintiffs' Complaint [Docket No. 1] be **DISMISSED WITHOUT PREJUDICE**.

Dated: December 4, 2014

s/ Janie S. Mayeron
JANIE S. MAYERON
United States Magistrate Judge

NOTICE

Under D. Minn. LR 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **December 18, 2014**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. A party may respond to the objecting party's brief within fourteen days after service thereof. All briefs filed under this Rule shall be limited to 3500 words. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable to the Court of Appeals.